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Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Washington, D.C. 20554

**CGB**

SEP 11 2003

02-278

Control No. 0302500/aw

The Honorable Virgil H. Goode, Jr.  
U.S. House of Representatives  
70 East Court Street, Suite 215  
Rocky Mount, VA 24151

**RECEIVED**

SEP 29 2003

Federal Communications Commission  
Office of the Secretary

Dear Congressman Goode:

Thank you for your letter on behalf of your constituent, Ms. Barbara Hartley at the Lynchburg Regional Chamber of Commerce, regarding the Federal Communications Commission's (Commission) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). Specifically, Ms. Hartley expresses concern that, "without the full input from the business community," the Commission reversed its prior conclusion that an "established business relationship" constitutes the necessary express permission to send an unsolicited facsimile advertisement. Ms. Hartley indicates that requiring such express permission to be in writing will place onerous burdens on associations that wish to fax their members.

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night.

No. 0302500/aw 2  
LS:AB/DE

VIRGIL H. GOODE, JR.  
5TH DISTRICT, VIRGINIA

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-4605

**PLEASE USE THE  
ROCKY MOUNT ADDRESS**

August 15, 2003

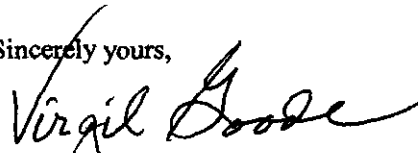
CG B  
TCPA  
PV  
MKP 2500

The Honorable Michael Powell  
Chairman, Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Dear Chairman Powell:

I am writing you concerning docket number 02-278. I have communicated to you in the past relating to your proposed rules and regulations relating to faxes. Enclosed is an example from the Lynchburg Regional Chamber of Commerce that further illustrates the need to allow faxes within a membership like the Lynchburg Regional Chamber of Commerce. I would hope that you would show every consideration to keeping the established business relationship rule for allowing faxes. Thank you again for your consideration. With kind regards, I am

Sincerely yours,



Virgil H. Goode, Jr.

VHGjr/gdc

Enclosure

Cc: Ms. Barbara Hartley  
Vice President of Business Advocacy  
Lynchburg Regional Chamber of Commerce  
2015 Memorial Avenue  
P.O. Box 2027  
Lynchburg, Virginia 24501

25 AUG 2003 RCUD

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2015 Memorial Avenue  
P.O. Box 2027  
Lynchburg, VA 24501

August 12, 2003

The Honorable Virgil Goode  
U.S. House of Representatives  
103 South Main Street  
Farmville, VA 23901

Dear Congressman Goode:

RE: Docket # 02-278

The following letter was sent to the Honorable Michael Powell.

Please lend your support to this request.

I thank you for your continued assistance and support of your business constituents.

I am writing to strongly urge you to stay temporarily and then reconsider the rules governing unsolicited facsimile advertisements included in the Report and Order amending the regulations that implement the Telephone Consumer Protection Act of 1991 (TCPA).

The Commission has decided, without the full input from the business community, to modify the current law by doing away with the "established business relationship" provision pertaining to fax advertisements.

I understand that I would not be allowed to fax membership dues renewal notices, promotions for upcoming meetings and seminars, or solicitations to sponsor a Chamber activity or event. Attorneys have read the rule to say that even if these sorts of materials are requested over the phone or via e-mail, unless I first obtain written permission, I would be in violation of the rule. If this is true, you are forcing my members either to send me written permission to continue to receive membership-related information, or forfeit their right to hear about the benefits, events, and services we can offer their businesses.

We believe that the FCC did not fully understand the breadth, scope and practical effect of this decision. These regulations will add to the economic burden of running a small business by increasing paperwork requirements and encouraging frivolous lawsuits against unsuspecting small business owners. There are already many organizations advertising their litigation services and ready to pounce on small businesses that allegedly send out unsolicited faxes.

This proposal is a prime example of an idea where the disadvantages and unintended consequences far outweigh the benefits. I urge you to reconsider the proposal and ask that you temporarily stay the rules until chambers of commerce, trade associations, and businesses are able to provide additional comments.

Sincerely,

Barbara Hartley  
Vice President of Business Advocacy  
Lynchburg Regional Chamber of Commerce

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